

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP/(954) 797-1101

SUBJECT: Ordinance
ZB 4-3-01 Laystrom/Zacco, 441 Park of Commerce, 5011 State Road 7,
Buildings 1 & 2/Generally located on the west side of State Road 7, 350 feet
north of SW 51 Street.

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-2, MEDIUM INDUSTRIAL DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The applicant is requesting to rezone the 3.12 acre subject site from M-2, Medium Industrial District to B-2, Community Business District, utilizing the Broward County 20% industrial to commercial flexibility rule, in order to utilize buildings 1 and 2 of the proposed 441 Park of Commerce for commercial/retail uses. The Comprehensive Plan recognizes that certain land designated Industrial on the Future Land Use Plan map may also be suitable for commercial use, particularly parcels that have frontage on a primary arterial corridor. Accordingly, the Comprehensive Plan allows for the rezoning of up to 20% of the industrially designated and zoned land to a commercial zoning district through the application of the "Industrial to Commercial Flexibility Rule" promulgated by the Broward County Land Use Plan. The subject site meets the Land Development Code's conventional nonresidential development criteria for the B-2, Community Business District, and will have adequate parking. The request is consistent with the established pattern of the development along the State Road 7, as the corridor is characterized by a mix of industrial and commercial zoning and uses. The applicant is required to submit a delegation request to amend the plat note for the Lester Industrial Park plat (131-43) to allow commercial/retail uses, and must satisfy Broward County traffic concurrency requirements by paying mass transit impact fees. The request was previously denied by Town Council, however Town Council has requested that the matter be reconsidered.

PREVIOUS ACTIONS: Councilmember Truex made a motion, seconded by Councilmember Clark, to deny. In a roll call vote, the vote was as follows: Mayor Venis - no; Vice-Mayor Paul - no; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes (Motion carried 3-2).

Town Council requested to reconsider the item at the August 1, 2001 meeting, however the item was deferred multiple times at the request of the applicant and voted upon at the October 3, 2001 meeting. The request was approved subject to the voluntary deed restrictions as well as the items in the letter submitted at the meeting relative to the Griffin Road connector, that the site plan shall not be modified to exceed the square footage shown on the approved site plan, and the applicant will put forth his best effort to gain approval for traffic phasing improvements (Motion carried 5-0).

CONCURRENCES: The Planning and Zoning Board recommended approval of the request at its June 13, 2001 meeting (Motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Ordinance, Voluntary Deed Restrictions, Land use map, Subject site map, Aerial

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-2, MEDIUM INDUSTRIAL DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from M-2, Medium Industrial District to B-2, Community Business District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing thereunder was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from M-2, Medium Industrial District to B-2, Community Business District:

a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.

SECTION 2. That the owner has voluntarily executed an amended deed restriction on the property described in Section 1:

a. The amended declaration of restrictions is attached as Exhibit "B", hereto, and made a part hereof.

SECTION 3. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as CF, Community Facilities District.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2001.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2001.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2001.

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned Mario Zacco, being the owner(s) of that certain real property located in the Town of Davie, Broward County, Florida, and described on Exhibit "A" attached hereto and made a part hereof, voluntarily makes the following Declaration of Restrictions covering the above-described property, specifying that this Declaration of Restrictions shall constitute a covenant running with the land and that this declaration shall constitute a covenant running with the land and that this declaration shall be binding upon the undersigned and upon all persons deriving or taking title through the undersigned. These restrictions, during their lifetime, shall be for the benefit for the Town of Davie, Florida.

1. The following Uses shall not be conducted on the above described property: bars, lounges, restaurants or retail/entertainment facilities greater than 5,000 square feet, pawn shops, pool rooms, adult facilities, bowling alleys, movie theaters, night clubs.
2. These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the approval of the undersigned or their successors in title or assigns. Any amendment to this Declaration of Restrictions or termination hereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.
3. Invalidation of any one portion of this Declaration of Restrictions or any portion of this document by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
4. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the citizens of the Town of Davie, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2001 .

Signed, sealed and delivered

_____ BY: _____

Witness

PRINT: _____

Witness

PRINT: _____

STATE OF FLORIDA

SS:

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____,

2001, by _____ who is personally known to me or produced

_____ as identification.

Notary Public:

Sign:

Print

Name:

My Commission Expires:

10.2
B

LAW OFFICES
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PERLOFF, VOIGT, WACHS & MAC IVER, LLP**

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† ALSO ADMITTED IN PENNSYLVANIA
* ALSO ADMITTED IN MICHIGAN
* BOARD CERTIFIED REAL ESTATE LAWYER
** CERTIFIED CIRCUIT CIVIL AND FAMILY MEDIATOR

October 3, 2001

Wilson Atkinson, Esq.
ATKINSON DINER
P.O. Box 2088
Hollywood, Florida 33020

Re: Mario Zacco - Partial Rezoning of 441 Park of Commerce

Dear Wilson:

As a follow-up to our telephone conversation earlier this week, enclosed please find a proposed Declaration of Restrictions for the Zacco property as well as a list of Conditions of Zoning Approval which I would propose that we present to the Town of Davie. This letter will also confirm that I have been authorized to use my best efforts to obtain approval and assistance from the Town of Davie to create a connector road between the Park of Commerce and Griffin Road. Those best efforts will include my contacting the Town staff and the Town Council to express the need for the connector. I would want your commitment to join me in these efforts so we work as a team. I will also meet with Town staff for the purpose of determining what mechanism the Town has or might put in place to obtain the right-of-way for the connector road at the time those properties which abut the connector road begin seeking development approvals from the Town. This commitment does not include Mr. Zacco paying for traffic studies, right-of-way analysis or acquisition, roadway construction or other expenditure of funds by Mr. Zacco.

I have also spoken with Mr. Zacco and he has no objection to being part of a special assessment district or taxing district and paying his pro-rata share of any cost to construct the Griffin Road connector road so long as the district includes all those property owners using the connector road.

Further, Mr. Zacco will pay for the striping and signs for a three way stop at S.W. 51st Street and S.W. 48th Way. Your client agrees to join with us in the application and approval process for the three way stop.

I trust this letter sets forth our understanding and agreement. If your understanding of our agreement corresponds to what is set forth in this correspondence and its attachments, please acknowledge your client's agreement by signing this letter below.

Yours truly,



C. WILLIAM LAYSTROM, JR.
For the Firm

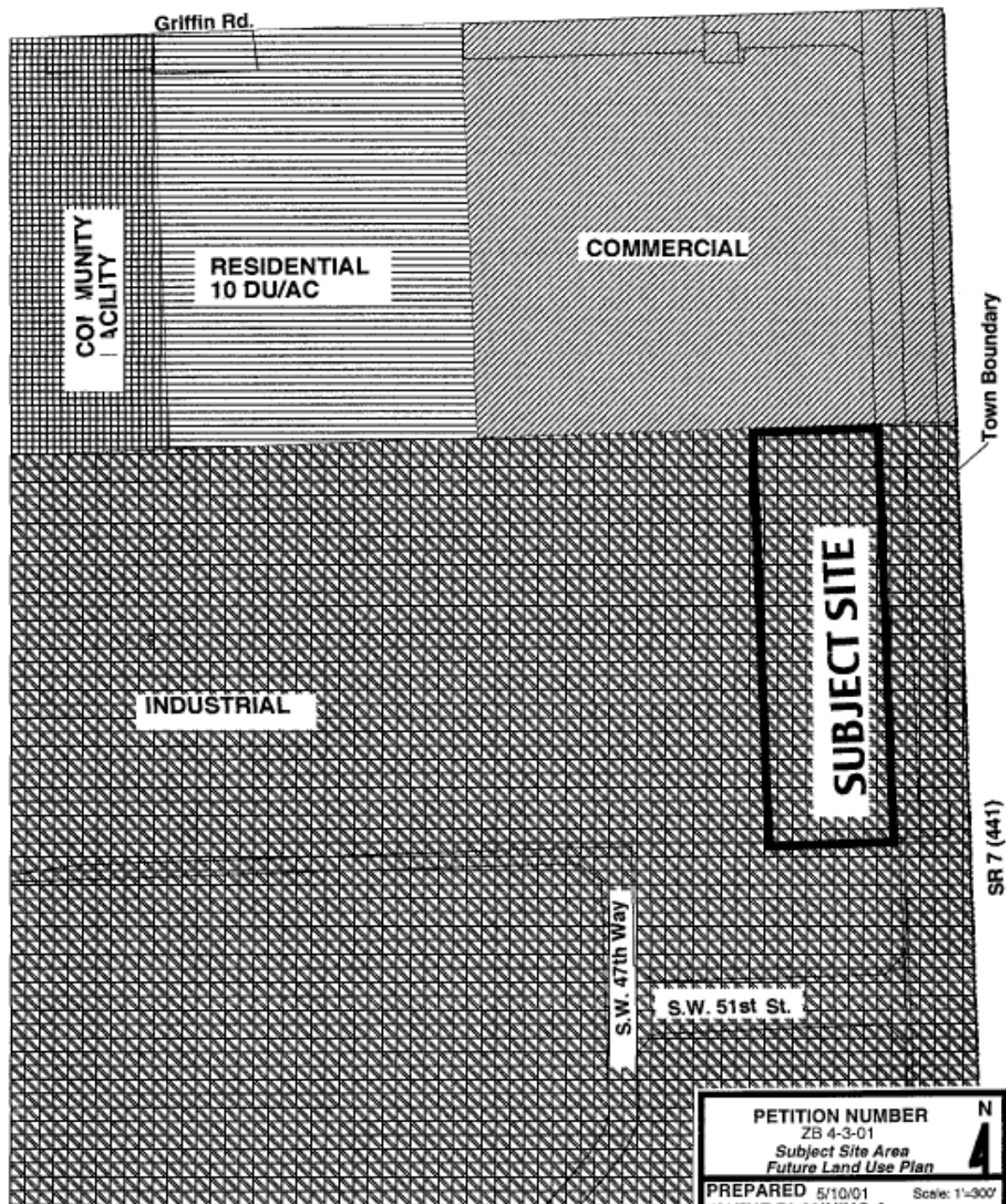
CWL:lv
Enc.

MARIO ZACCO

DATE

WILSON ATKINSON, ESQ.
for Pelican Bay/Rowars

DATE



PETITION NUMBER		N 4
ZB 4-3-01		
Subject Site Area Future Land Use Plan		
PREPARED	5/10/01	Scale: 1"=300'
BY THE PLANNING & ZONING DIVISION		

